

AMENDED IN ASSEMBLY APRIL 18, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 224

Introduced by Assembly Member Negrete McLeod

February 3, 2005

An act to amend Sections ~~20352, 20638, 31453, 31461.3, 31700, 31831, 31831.2, 31833, 31834, 31835, and 31837~~ of, and to repeal Sections ~~20355, 20356, 31835.02, 31837.1, 31840.4, 31840.5, 31840.6, and 31840.7~~ of, the Government Code, relating to county employees' retirement; ~~20098, 20163, 20281.5, 20340, 20752, 21151, 21220, 21221, 21224, 21225, 21226, 21227, 21359, 21540.5, 22009.1, 22150, 22155, 22202, 22203, 22208, 22302, 22308, 22560, 22873, 22874, 22876, and 22958~~ of, and to add Sections 22009.03 and 22156 to, the Government Code, relating to public employees' benefits.

LEGISLATIVE COUNSEL'S DIGEST

AB 224, as amended, Negrete McLeod. ~~County employees' retirement; reciprocity; actuarial valuation. Public employees' benefits.~~

(1) Under existing law, the Board of Administration of the Public Employees' Retirement System is authorized to appoint and fix the compensation of certain employees of the system whose positions are designated as managerial, notwithstanding specified provisions of law.

This bill would clarify the board's ability to make appointments and fix compensation notwithstanding several provisions establishing salary limits.

(2) The Public Employees' Retirement Law permits certain adjustments to be made with respect to employer and employee contributions if more or less than the correct amount is paid, and

further specifies that losses or gains resulting from errors within the limits set by the State Board of Control for automatic writeoff shall be debited or credited to specified reserves, losses, or contingencies.

This bill would change references to the State Board of Control to the Victim Compensation and Government Claims Board.

(3) Under existing law, state employees who become members of the Public Employees' Retirement System after a certain date do not immediately make contributions nor receive service credit for their service, during their first 24 months of employment.

This bill would clarify that a member who separates from state employment shall remain subject to that provision for the duration of the 24-month period prescribed if he or she returns to state employment within that period, as specified.

(4) Existing law refers to the University of California Retirement System.

This bill would change those statutory references to the University of California Retirement Plan.

(5) Under existing law, patrol, state safety, state industrial, state peace officer/firefighter, or local safety members, among others, who are incapacitated as a result of an industrial disability are retired for disability, except as specified.

This bill would exclude from that provision state safety members who are state prosecutors or state public defenders.

(6) The Public Employees' Retirement Law establishes the circumstances in which a retired person may serve without reinstatement from retirement or loss or interruption of benefits. Under that law, certain appointments may be made of limited duration if they do not exceed 960 hours in any calendar year.

This bill would change the basis for calculating the maximum number of hours a retired person may serve from a calendar year to a fiscal year and would make related changes to those provisions.

(7) Existing law authorizes a special death benefit for deceased state, school, or local miscellaneous members and for specified local safety members, if the death of the member was a direct consequence of a violent act that arose during his or her official duties.

This bill would make that provision applicable to state safety members who are state prosecutors and state public defenders.

(8) The Public Employees' Retirement Law defines the term "public agency" for purposes of certain provisions relating to federal Social Security. Existing law, until January 1, 2005, included within that

definition, a school district, a county superintendent of schools, and a regional occupational center or program established pursuant to specified provisions, with respect to employees eligible for membership in the State Teachers' Retirement Plan.

This bill would again include those entities within the definition of that term. The bill would also authorize the State Teachers' Retirement Plan to provide Medicare coverage for employees of a public agency, as so defined, upon request of the public agency. The bill would also specify the conditions by which a member of such a public agency may elect Medicare coverage.

(9) Existing law establishes the Public Employees' Medical and Hospital Care Act.

This bill would revise the definition of state service as used within the act, would specify the percentage of employer contributions for certain post-retirement health benefits, and would make other related changes to that act.

~~(1) Existing law provides for reciprocity of retirement benefits, as specified, for a member of the Public Employees' Retirement System, a system established under the County Employees Retirement Law of 1937, or other specified public retirement systems, who retires concurrently under 2 of those retirement systems, if the period of time between the member's discontinuance of employment subject to the Public Employees' Retirement System or a retirement system established under the County Employees Retirement Law of 1937 and his or her entry into employment subject to the other retirement system does not exceed 6 months or, in some cases, one year.~~

~~This bill would provide for reciprocity of retirement benefits for those members if the period of time between the member's discontinuance of employment subject to the Public Employees' Retirement System or a retirement system established under the County Employees Retirement Law of 1937 and his or her entry into employment subject to the other retirement system does not exceed 36 months.~~

~~(2) Existing law requires an actuarial valuation to be conducted at least every 3 years with respect to any retirement system established under the County Employees Retirement Law of 1937. Following that valuation, the board of retirement of the system is required to recommend to the county board of supervisors any change in interest rates, contributions rates, or appropriations that are necessary. The~~

~~board of retirement is required to make those recommendations at least 45 days prior to the beginning of the succeeding fiscal year.~~

~~This bill would require the board of retirement to make those recommendations at least 60 days prior to the beginning of the succeeding fiscal year.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 20352 of the Government Code is~~
2 ~~amended to read:~~

3 ~~SECTION 1. Section 20098 of the Government Code is~~
4 ~~amended to read:~~

5 20098. (a) The board shall appoint and, notwithstanding
6 Sections 19816, ~~19825 and 19826~~, 19825, 19826, 19829, and
7 19832 shall fix the compensation of an executive officer, a chief
8 actuary, a chief investment officer, and other investment officers
9 and portfolio managers whose positions are designated
10 managerial pursuant to Section 18801.1.

11 (b) The executive officer, deputy executive officers, and the
12 assistant executive officers may administer oaths.

13 (c) When fixing the compensation for the positions specified
14 in subdivision (a), the board shall be guided by the principles
15 contained in Sections 19826 and 19829, consistent with its
16 fiduciary responsibility to its members to recruit and retain
17 highly qualified and effective employees for these positions.

18 (d) When a position specified in subdivision (a) is filled
19 through a general civil service appointment, it shall be filled from
20 an eligible list based on an examination that was held on an open
21 basis, and tenure in the position shall be subject to the provisions
22 of Article 2 (commencing with Section 19590) of Chapter 7 of
23 Part 2 of Division 5 of Title 2. In addition to the causes for action
24 specified in that article, the board may take action under the
25 article for causes related to its fiduciary responsibility to its
26 members, including the employee's failure to meet specified
27 performance objectives.

28 (e) An individual who held a position designated in
29 subdivision (a) for less than five years may not, for a period of
30 two years after leaving that position, for compensation, act as

agent or attorney for, or otherwise represent, any other person, except the state, by making any formal or informal appearance before or any oral or written communication to the Public Employees' Retirement System, or any officer or employee thereof, if the appearance or communication is made for the purpose of influencing administrative or legislative action or any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, contract, or sale or purchase of goods or property.

SEC. 2. Section 20163 of the Government Code is amended to read:

20163. If more or less than the correct amount of contribution required of members, the state, or any contracting agency, is paid, proper adjustment shall be made in connection with subsequent payments, or the adjustments may be made by direct cash payments between the member, state, or contracting agency concerned and the board or by adjustment of the employer's rate of contribution. Adjustments to correct any other errors in payments to or by the board, including adjustments of contributions, with interest, that are found to be erroneous as the result of corrections of dates of birth, may be made in the same manner. Adjustments to correct overpayment of a retirement allowance may also be made by adjusting the allowance so that the retired person or the retired person and his or her beneficiary, as the case may be, will receive the actuarial equivalent of the allowance to which the member is entitled. Losses or gains resulting from error in amounts within the limits set by the ~~State Board of Control~~ *Victim Compensation and Government Claims Board* for automatic writeoff, and losses or gains in greater amounts specifically approved for writeoff by the ~~State Board of Control~~ *Victim Compensation and Government Claims Board*, shall be debited or credited, as the case may be, to the reserve against deficiencies in interest earned in other years, losses under investments, and other contingencies.

No adjustment shall be made because less than the correct amount of normal contributions was paid by a member if the board finds that the error was not known to the member and was not the result of erroneous information provided by him or her to this system or to his or her employer and the failure to adjust

1 shall not preclude action under Section 20160 correcting the date
2 upon which the person became a member.

3 The actuarial equivalent under this section shall be computed
4 on the basis of the mortality tables and actuarial interest rate in
5 effect under this system on December 1, 1970, for retirements
6 effective through December 31, 1979. Commencing with
7 retirements effective January 1, 1980, and at corresponding
8 10-year intervals thereafter, or more frequently at the board's
9 discretion, the board shall change the basis for calculating
10 actuarial equivalents under this article to agree with the interest
11 rate and mortality tables in effect at the commencement of each
12 10-year or succeeding interval.

13 *SEC. 3. Section 20281.5 of the Government Code is amended*
14 *to read:*

15 20281.5. (a) Notwithstanding Section 20281, a person who
16 becomes a state miscellaneous or state industrial member of the
17 system on or after the effective date of this section because the
18 person is first employed by the state and qualifies for
19 membership shall be subject to the provisions of this section.

20 (b) Members subject to this section shall not accrue credit for
21 service in the system and shall not make employee contributions
22 to the system, including the contributions set forth in Section
23 20677.4, for employment with the state until the first day of the
24 first pay period commencing 24 months after becoming a
25 member of the system.

26 (c) Notwithstanding subdivision (a), this section shall not
27 apply to any of the following:

28 (1) Persons who are already members or annuitants of the
29 system at the time they are first employed by the state.

30 (2) Employees of the California State University, or the
31 legislative or judicial branch of state government.

32 (3) Members of the Judges' Retirement System, the Judges'
33 Retirement System II, the Legislators' Retirement System, the
34 State Teachers' Retirement System, or the University of
35 California Retirement Plan.

36 (4) Persons who are members of a reciprocal retirement
37 system and whose employment was subject to a reciprocal
38 retirement system within the six months prior to membership in
39 this system.

1 (5) Persons whose service is not included in the federal
2 system.

3 (6) Persons who are employed by the Department of the
4 California Highway Patrol as students at the department's
5 training school established pursuant to Section 2262 of the
6 Vehicle Code.

7 (7) Persons who had ceased to be members pursuant to Section
8 20340 or 21075.

9 (d) *A member who separates from state employment shall*
10 *remain subject to this section for the duration of the 24-month*
11 *period prescribed by subdivision (b) if he or she returns to state*
12 *employment as a state miscellaneous or state industrial member*
13 *within that period.*

14 (e) Any regulations adopted by the board to implement the
15 requirements of this section shall not be subject to the review and
16 approval of the Office of Administrative Law, pursuant to
17 Chapter 3.5 (commencing with Section 11340) of Part 1 of
18 Division 3. The regulations shall become effective immediately
19 upon filing with the Secretary of State.

20 *SEC. 4. Section 20340 of the Government Code is amended to*
21 *read:*

22 20340. A person ceases to be a member:

23 (a) Upon retirement, except while participating in reduced
24 worktime for partial service retirement.

25 (b) If he or she is paid his or her normal contributions, unless
26 payment of contributions is the result of an election pursuant to
27 paragraph (1) of subdivision (b) of Section 21070, or unless, after
28 reducing the member's credited service by the service applicable
29 to the contributions being withdrawn, the member meets the
30 requirements of Section 21075 or if he or she is paid a portion of
31 his or her normal contributions where more than one payment is
32 made, or these contributions are held pursuant to Section 21500.
33 For the purposes of this subdivision, deposit in the United States
34 mail of a warrant drawn in favor of a member, addressed to the
35 latest address of the member on file in the office of this system,
36 electronic fund transfer to the person's bank, savings and loan
37 association, or credit union account, constitutes payment to the
38 person of the amount for which the warrant is drawn or
39 electronically transferred.

(c) If the member has less than five years of service credit and no accumulated contributions in the retirement fund at the time of termination of service, unless the member establishes membership in the Judges' Retirement System, the Judges' Retirement System II, the Legislators' Retirement System, the State Teachers' Retirement System, or the University of California Retirement-System Plan, or establishes reciprocity with a reciprocal retirement system.

SEC. 5. Section 20752 of the Government Code is amended to read:

20752. (a) A member of the Judges' Retirement System, the Judges' Retirement System II, the Legislators' Retirement System, the State Teachers' Retirement Plan, the University of California Retirement-System Plan, or a county retirement system, who has withdrawn accumulated contributions from this system shall have the right to redeposit those contributions, subject to the same conditions as imposed for redeposits of accumulated contributions by Section 20750, including the rights that he or she would have had under Section 20638 had he or she not withdrawn his or her contributions.

(b) Provisions of this section extending a right to redeposit accumulated contributions withdrawn from this system shall also apply to members of any retirement system established under Chapter 2 (commencing with Section 45300) of Division 5 of Title 4 with respect to which an ordinance complying with Section 45310.5 has been filed with, and accepted by, the board or any retirement system established by, or pursuant to, the charter of a city or city and county or by any other public agency of this state which system, in the opinion of the board, provides a similar modification of rights and benefits because of membership in this system and with respect to which the governing body of the city, city and county or public agency and the board have entered into agreement pursuant to Section 20351.

(c) A member who elects to redeposit under this section shall have the same rights as a member who has elected pursuant to Section 20731 to leave his or her accumulated contributions on deposit in the fund.

SEC. 6. Section 21151 of the Government Code is amended to read:

21151. (a) Any patrol, state safety, state industrial, state peace officer/firefighter, or local safety member incapacitated for the performance of duty as the result of an industrial disability shall be retired for disability, pursuant to this chapter, regardless of age or amount of service.

(b) This section also applies to local miscellaneous members if the contracting agency employing those members elects to be subject to this section by amendment to its contract.

(c) This section also applies to all of the following:

(1) State miscellaneous members employed by the Department of Justice who perform the duties now performed in positions with the class title of Criminalist (Class Code 8466), or Senior Criminalist (Class Code 8478), or Criminalist Supervisor (Class Code 8477), or Criminalist Manager (Class Code 8467), Latent Print Analyst I (Class Code 8460), Latent Print Analyst II (Class Code 8472), or Latent Print Supervisor (Class Code 8473).

(2) State miscellaneous members employed by the Department of the California Highway Patrol who perform the duties now performed in positions with the class title of Communications Operator I, California Highway Patrol (Class Code 1663), Communications Operator II, California Highway Patrol (Class Code 1664), Communications Supervisor I, California Highway Patrol (Class Code 1662), or Communications Supervisor II, California Highway Patrol (Class Code 1665).

(3) State miscellaneous members whose disability resulted under the conditions specified in Sections 20046.5 and 20047.

(4) State miscellaneous members in State Bargaining Unit 12 employed by the Department of Transportation, if a memorandum of understanding has been agreed to by the state employer and the recognized employee organization making this paragraph applicable to those members.

(d) This section does not apply to local safety members described in Section 20423.6, unless this section has been made applicable to local miscellaneous members pursuant to subdivision (b).

(e) *This section does not apply to state safety members described in Section 20401.5.*

SEC. 7. Section 21220 of the Government Code is amended to read:

21220. (a) A person who has been retired under this system, for service or for disability, may not be employed in any capacity thereafter by the state, the university, a school employer, or a contracting agency, unless the employment qualifies for service credit in the University of California Retirement ~~System Plan~~ or the State Teachers' Retirement Plan, unless he or she has first been reinstated from retirement pursuant to this chapter, or unless the employment, without reinstatement, is authorized by this article. A retired person whose employment without reinstatement is authorized by this article shall acquire no service credit or retirement rights under this part with respect to the employment.

(b) Any retired member employed in violation of this article shall:

(1) Reimburse this system for any retirement allowance received during the period or periods of employment that are in violation of law.

(2) Pay to this system an amount of money equal to the employee contributions that would otherwise have been paid during the period or periods of unlawful employment, plus interest thereon.

(3) Contribute toward reimbursement of this system for administrative expenses incurred in responding to this situation, to the extent the member is determined by the executive officer to be at fault.

(c) Any public employer that employs a retired member in violation of this article shall:

(1) Pay to this system an amount of money equal to employer contributions that would otherwise have been paid for the period or periods of time that the member is employed in violation of this article, plus interest thereon.

(2) Contribute toward reimbursement of this system for administrative expenses incurred in responding to this situation, to the extent the employer is determined by the executive officer of this system to be at fault.

SEC. 8. Section 21221 of the Government Code is amended to read:

21221. A retired person may serve without reinstatement from retirement or loss or interruption of benefits provided by this system, as follows:

1 (a) As a member of any board, commission, or advisory
2 committee, upon appointment by the Governor, the Speaker of
3 the Assembly, the President pro Tempore of the Senate, director
4 of a state department, or the governing board of the contracting
5 agency. However, the appointment shall not be deemed
6 employment within the meaning of Division 4 (commencing with
7 Section 3200) and Division 4.5 (commencing with Section 6100)
8 of the Labor Code, and shall not provide a basis for the payment
9 of workers' compensation to a retired state employee or to his or
10 her dependents.

11 (b) As a school crossing guard.

12 (c) As a juror or election officer.

13 (d) As an elective officer on and after September 15, 1961.
14 However, all rights and immunities which may have accrued
15 under Section 21229 as it read prior to that section's repeal
16 during the 1969 Regular Session of the Legislature are hereby
17 preserved.

18 (e) As an appointive member of the governing body of a
19 contracting agency. However, the compensation for that office
20 shall not exceed one hundred dollars (\$100) per month.

21 (f) Upon appointment by the Legislature, or either house, or a
22 legislative committee to a position deemed by the appointing
23 power to be temporary in nature.

24 (g) Upon employment by a contracting agency to a position
25 found by the governing body, by resolution, to be available
26 because of a leave of absence granted to a person on payroll
27 status for a period not to exceed one year and found by the
28 governing body to require specialized skills. The temporary
29 employment shall be terminated at the end of the leave of
30 absence. Appointments under this section shall be reported to the
31 board and shall be accompanied by the resolution adopted by the
32 governing body.

33 (h) Upon appointment by the governing body of a contracting
34 agency to a position deemed by the governing body to be of a
35 limited duration and requiring specialized skills or during an
36 emergency to prevent stoppage of public business. These
37 appointments, in addition to any made pursuant to Section 21224,
38 shall not exceed a total for all employers of 960-hours in any
39 ~~calendar~~ fiscal year. When an appointment is expected to, or will,
40 exceed 960-hours in any ~~calendar~~ fiscal year, the governing body

1 shall request approval from the board to extend the temporary
2 employment. The governing body shall present a resolution to
3 the board requesting action to allow or disallow the employment
4 extension. The resolution shall be presented prior to the
5 expiration of the 960-hour maximum for the ~~calendar~~ fiscal year.
6 The appointment shall continue until notification of the board's
7 decision is received by the governing body. The appointment
8 shall be deemed approved if the board fails to take action within
9 60 days of receiving the request. Appointments under this
10 subdivision may not exceed a total of ~~one year~~ 12 months.

11 (i) Upon appointment by the Administrative Director of the
12 Courts to the position of Court Security Coordinator, a position
13 deemed temporary in nature and requiring the specialized skills
14 and experience of a retired professional peace officer.

15 *SEC. 9. Section 21224 of the Government Code is amended to*
16 *read:*

17 21224. (a) A retired person may serve without reinstatement
18 from retirement or loss or interruption of benefits provided by
19 this system upon appointment by the appointing power of a state
20 agency or ~~any other~~ public agency employer either during an
21 emergency to prevent stoppage of public business or because the
22 retired employee has skills needed in performing work of limited
23 duration. These appointments shall not exceed a total for all
24 employers of 960 hours in any ~~calendar~~ fiscal year, and the rate
25 of pay for the employment shall not be less than the minimum,
26 nor exceed that paid by the employer to other employees ~~ma~~
27 performing comparable duties.

28 (b) (1) This section shall not apply to any retired person
29 otherwise eligible if during the 12-month period prior to an
30 appointment described in this section the retired person received
31 any unemployment insurance compensation arising out of prior
32 employment subject to this section with the same employer.

33 (2) A retired person who accepts an appointment after
34 receiving unemployment insurance compensation as described in
35 this subdivision shall terminate that employment on the last day
36 of the current pay period and shall not be eligible for
37 reappointment subject to this section for a period of 12 months
38 following the last day of employment. The retired person shall
39 not be subject to Section 21202 or subdivision (b) of Section
40 21220.

1 *SEC. 10. Section 21225 of the Government Code is amended*
2 *to read:*

3 21225. A retired person may serve without reinstatement
4 from retirement or loss or interruption of benefits provided by
5 this system as a substitute in a position requiring certification
6 qualifications, pursuant to Section 59007 or 59113 of the
7 Education Code, at the California School for the Deaf or the
8 California School for the Blind, if that service does not exceed *a*
9 *total for all employers of* 960 hours in any fiscal year.

10 *SEC. 11. Section 21226 of the Government Code is amended*
11 *to read:*

12 21226. A retired person may serve without reinstatement
13 from retirement or loss or interruption of benefits provided by
14 this system as a member of the academic staff of a California
15 community college or of the University of California, if that
16 service does not exceed *a total for all employers of* 960 hours in
17 any fiscal year.

18 *SEC. 12. Section 21227 of the Government Code is amended*
19 *to read:*

20 21227. A retired person may serve without reinstatement
21 from retirement or loss or interruption of benefits provided by
22 this system as a member of the academic staff of a California
23 state university, if that service does not exceed, in any fiscal year,
24 *a total for all employers of* 960 hours ~~for all employers~~ or 50
25 percent of the hours the member was employed during the last
26 fiscal year of service prior to retirement.

27 *SEC. 13. Section 21359 of the Government Code is amended*
28 *to read:*

29 21359. Notwithstanding Section 21357, in determining the
30 method of calculation of subsequent retirement benefits for a
31 university employee who, on the date of reemployment and
32 reinstatement from retirement, did not have the right to elect
33 membership in this system, the service rendered under the
34 University of California Retirement—~~System~~ *Plan* after
35 reemployment and reinstatement shall be considered service
36 rendered under this system.

37 *SEC. 14. Section 21540.5 of the Government Code is*
38 *amended to read:*

39 21540.5. (a) The special death benefit is also payable if the
40 deceased was a state, school, or local miscellaneous member ~~or~~,

1 a local safety member described in Section 20423.6, or a state
2 safety member described in Section 20401.5, if the death of the
3 member was a direct consequence of a violent act perpetrated on
4 his or her person that arose out of and was in the course of his or
5 her official duties and there is a survivor who qualifies under
6 paragraph (2) of subdivision ~~(b)~~ (a) of Section 21541. The
7 Workers' Compensation Appeals Board, using the same
8 procedure as in workers' compensation hearings, shall, in
9 disputed cases determine whether the member's death was a
10 direct consequence of a violent act perpetrated on his or her
11 person that arose out of and in the course of his or her official
12 duties.

13 (b) A natural parent of surviving children eligible to receive an
14 allowance payable under this section is not required to become
15 the guardian of surviving unmarried children under 18 years of
16 age in order to be paid the benefits prescribed for those children.

17 (c) The jurisdiction of the Workers' Compensation Appeals
18 shall be limited solely to the issue of industrial causation, and
19 this section may not be construed to authorize the Workers'
20 Compensation Appeals Board to award costs against this system
21 pursuant to Section 4600 or 5811 or any other provision of the
22 Labor Code.

23 (d) This section does not apply to a contracting agency nor its
24 employees unless and until the agency elects to be subject to it by
25 amendment to its contract made in the manner prescribed for
26 approval of contracts, or in the case of a new contract, by express
27 provision of the contract.

28 SEC. 15. Section 22009.03 is added to the Government Code,
29 to read:

30 22009.03. "Public agency" also includes a school district, a
31 county superintendent of schools, and a regional occupational
32 center or program established pursuant to Article 1
33 (commencing with Section 6500) of Chapter 5 of Division 7 of
34 Title 1, with respect to employees eligible for membership in the
35 State Teachers' Retirement Plan.

36 SEC. 16. Section 22009.1 of the Government Code is
37 amended to read:

38 22009.1. "Retirement system" includes:

1 (a) A pension, annuity, retirement or similar fund or system
2 established by a public agency and covering only positions of
3 that agency.

4 (b) The Public Employees' Retirement System with respect
5 only to employees of the state and employees of the University of
6 California in positions covered by that system.

7 (c) The Public Employees' Retirement System with respect to
8 employees of all school districts in positions covered under each
9 contract entered into by a county superintendent of schools and
10 the system.

11 (d) The State Teachers' Retirement System with respect to all
12 employees in positions subject to coverage under the Defined
13 Benefit Program of the State Teachers' Retirement Plan except
14 employees of a public agency having any employees in positions
15 covered by that system who are also in positions covered by a
16 local retirement system for the retirement of teachers, or for
17 membership in which public school teachers are eligible,
18 operated by a city, city and county, county or other public agency
19 or combination of public agencies of the state.

20 (e) The Legislators' Retirement System with respect to all
21 employees in positions covered by that system.

22 (f) The Judges' Retirement System with respect to all
23 employees in positions covered by that system.

24 (g) The University of California Retirement ~~System~~ *Plan* only
25 with respect to all employees in positions covered by that system.

26 (h) The San Francisco City and County Employees'
27 Retirement System with respect to all employees in positions
28 covered by that system.

29 (i) Any other retirement system with respect only to
30 employees of any two or more of the public agencies having
31 employees in positions covered by that system, as designated by
32 the board and with regard to which the board authorizes conduct
33 of a referendum.

34 (j) Any retirement system with respect only to employees of a
35 hospital that is an integral part of a city incorporated between
36 January 15, 1898 and July 15, 1898 in positions covered by the
37 system, as designated by the board on request of the city.

38 (k) Except as otherwise provided in subdivisions (b) to (j),
39 inclusive, any retirement system with respect to employees of

1 each of the public agencies having employees in positions
2 covered by the system.

3 ~~(l) Each division or part of a retirement system, as defined in~~
4 ~~subdivisions (a), (b), (c), (e), (g), (h), (i), (j), (k), and (m) of this~~
5 ~~section, which is divided pursuant to this chapter into two parts:~~

6 ~~(1) The part composed of the positions of members of the~~
7 ~~system who desire coverage under the federal system.~~

8 ~~(2) The part composed of the positions of members of the~~
9 ~~system who do not desire coverage under the federal system.~~

10 ~~(m) The State Teachers' Retirement System with respect to all~~
11 ~~employees of each public agency, as defined by Section~~
12 ~~22009.03, in positions covered by the State Teachers' Retirement~~
13 ~~Plan. This subdivision shall become inoperative on July 1, 2004.~~

14 *(m) Each division or part of a retirement system, as defined in*
15 *subdivisions (a), (b), (c), (e), (g), (h), (i), (j), (k), and (l) of this*
16 *section, that is divided pursuant to this chapter into two parts:*

17 *(1) The part composed of the positions of members of the*
18 *system who desire coverage under the federal system.*

19 *(2) The part composed of the positions of members of the*
20 *system who do not desire coverage under the federal system.*

21 *SEC. 17. Section 22150 of the Government Code is amended*
22 *to read:*

23 22150. Unless otherwise provided in this article, the board
24 shall authorize a division of a retirement system upon the request
25 of any public agency having employees in positions covered by
26 the system or upon authorization of the Legislature. An election
27 among members of the system shall not be required. A retirement
28 system as defined in subdivisions (d) and (f) of Section 22009.1
29 shall be divided pursuant to this article only if ~~such~~ *the* division
30 is otherwise authorized by the Legislature. The board shall
31 designate the person to conduct the division, as defined in
32 subdivision ~~(l)~~ *(m)* of Section 22009.1, of a retirement system.

33 For purposes of this section and all coverage procedures under
34 this part subsequent to division of the retirement system defined
35 in subdivision (g) of Section 22009.1 the University of California
36 shall be deemed to be a public agency.

37 *SEC. 18. Section 22155 of the Government Code is amended*
38 *to read:*

39 22155. Whenever, on the request of the governing body of a
40 public agency, a retirement system has been divided pursuant to

1 this article, the board, on the request of the governing body, shall
2 execute in conformity with Section 218 of the Social Security
3 Act and applicable federal regulations a modification to the
4 agreement providing for transfer to the system as defined in
5 *paragraph (1) of subdivision (m) of Section 22009.1*~~(1)(1)~~ created
6 by the division, the position of any member included in the
7 system, as defined in *paragraph (2) of subdivision (m) of Section*
8 *22009.1*~~(1)(2)~~, who requests ~~such a~~ transfer pursuant to Section
9 218(d)(6)(F) of the Social Security Act and board rules.

10 SEC. 19. *Section 22156 is added to the Government Code, to*
11 *read:*

12 22156. (a) *A division of the State Teachers' Retirement Plan*
13 *is hereby authorized by the Legislature to provide Medicare*
14 *coverage for employees of a public agency, as defined in Section*
15 *22009.03, upon the request of the public agency.*

16 (b) *The division authorized by subdivision (a) shall be*
17 *conducted pursuant to this article.*

18 (c) *A member of the State Teachers' Retirement Plan on whose*
19 *behalf a request is made pursuant to subdivision (a) may elect to*
20 *be covered by Medicare, pursuant to Section 218 of the Social*
21 *Security Act (42 U.S.C. Sec. 418), and applicable federal*
22 *regulations if all of the following apply:*

23 (1) *The member was employed in a position covered by the*
24 *plan on March 31, 1986.*

25 (2) *The member has not since been mandated into Medicare*
26 *coverage due to the enactment of Public Law 99-272.*

27 (3) *The member is in a position covered or the member is*
28 *eligible to elect to be covered by the retirement system on the*
29 *date of the division.*

30 (d) *The public agency shall immediately make an application*
31 *pursuant to Chapter 2 (commencing with Section 22200) of this*
32 *part for Medicare coverage for those members who have elected*
33 *to receive Medicare coverage.*

34 (e) *The effective date of the coverage may be retroactive, but*
35 *not earlier than the last day of the sixth calendar year preceding*
36 *the year in which the agreement or modifications, as the case*
37 *may be, is submitted to the Commissioner of Social Security.*

38 SEC. 20. *Section 22202 of the Government Code is amended*
39 *to read:*

22202. With respect to employees in the coverage group defined in subdivision (a) of Section 22100, the application shall be deemed to be made by a public agency if made by the Adjutant General. With respect to employees in positions covered by the retirement system set forth in subdivision (d) of Section 22009.1, the application shall be deemed to be made by a public agency if made by the Teachers' Retirement Board. With respect to employees in positions covered by the retirement system set forth in subdivision (g) of Section 22009.1, the application shall be deemed to be made by a public agency if made by the Regents of the University of California. *With respect to employees in the coverage group defined in subdivision (l) of Section 22009.1, the application shall be deemed to be made by a public agency if made by the governing body of the public agency, as defined in Section 22009.03.*

SEC. 21. Section 22203 of the Government Code is amended to read:

22203. Notwithstanding Section 22201, before the board shall execute on behalf of the state an agreement with the federal agency as provided in this chapter, the public agency and the board shall enter into a written agreement, ~~which that~~ shall include provisions not inconsistent with this part ~~which that~~ the board deems necessary in the administration of the federal system as it affects the state and the public agency and its employees.

For the purposes of this section, the state shall not be deemed to be a public agency, but nevertheless an agreement entered into pursuant to this part by the board and the Teachers' Retirement Board or the Adjutant General or the Regents of the University of California *or the governing body of a public agency, as defined in Section 22009.3*, shall be deemed to be entered into by the board and a public agency.

SEC. 22. Section 22208 of the Government Code is amended to read:

22208. With respect to each retirement system coverage group, the legislative or governing body of every public agency having employees in positions covered by a retirement system, may, upon the affirmative vote of a majority of eligible retirement system employees of the retirement system coverage group at a referendum conducted in accordance with Article 2

(commencing with Section 22300) of this chapter and the rules and regulations promulgated by the board pursuant to this part, make formal application to the board for the inclusion of the employees in each retirement system coverage group in the agreement. ~~With respect to employees in positions covered by the retirement system set forth in subdivision (d) of Section 22009.1, the formal application shall be deemed to be made, if made prior to July 1, 2004, by the legislative or governing body of a public agency as defined in Section 22009.03, or if on or after July 1, 2004, by the Teachers' Retirement Board.~~

SEC. 23. Section 22302 of the Government Code is amended to read:

22302. In the case of employees in positions covered by the retirement system set forth in subdivision (d) of Section 22009.1, ~~if prior to July 1, 2004, the legislative or governing body of a public agency as defined in Section 22009.03, or if on or after July 1, 2004,~~ the Teachers' Retirement Board shall conduct the referendum; if the referendum is authorized by the Legislature.

In the case of employees in positions covered by the retirement system set forth in subdivision (g) of Section 22009.1 the board shall authorize the referendum upon the request of the regents of the University of California and the regents shall conduct the referendum.

In the case of employees in positions covered by the retirement system set forth in subdivision (l) of Section 22009.1, the board shall authorize the referendum upon the request of the governing body of a public agency, as defined by Section 22009.03.

SEC. 24. Section 22308 of the Government Code is amended to read:

22308. This article does not apply to a retirement system composed of the positions of members of a divided system who desire coverage under the federal system as defined in subdivision~~(d)~~ (m) of Section 22009.1 and wherever in this part the conduct of a referendum is made a condition, the condition shall be fully satisfied by compliance with Article 2.5 (commencing with Section 22150) of Chapter 1 as to that retirement system.

SEC. 25. Section 22560 of the Government Code is amended to read:

1 22560. The board ~~shall~~ *may* charge or assess each public
2 agency as defined in Section 22009.03 and each public agency
3 shall pay and reimburse the state at the times and in the amounts
4 as the board may determine, the approximate cost to the state, of
5 any and all work, services, equipment, and other administrative
6 costs relating to a division under Article 2.5 (commencing with
7 Section 22150) of Chapter 1 of this part or the referendum
8 provided by Article 2 (commencing with Section 22300) of
9 Chapter 2 of this part and requested by the agency. The charges
10 may differ from public agency to public agency.

11 *SEC. 26. Section 22873 of the Government Code is amended*
12 *to read:*

13 22873. (a) Notwithstanding Section 22871, a state employee
14 first hired on or after January 1, 1985, may not be vested for the
15 full employer contribution payable for annuitants unless he or she
16 has 10 years of credited state service at the time of retirement.
17 The employer contribution payable for annuitants with less than
18 10 years of service shall be prorated based on credited state
19 service at the time of retirement. This section shall apply only to
20 state employees who retire for service. For purposes of this
21 section, “state service” ~~means service rendered as an employee or~~
22 ~~an appointed or elected officer of the state, including~~ *includes* all
23 municipal, superior, and justice court services rendered by a
24 justice of the Supreme Court or court of appeal, or by a judge of
25 the superior court.

26 (b) This section does not apply to employees of the California
27 State University or of the Legislature.

28 *SEC. 27. Section 22874 of the Government Code is amended*
29 *to read:*

30 22874. (a) Notwithstanding Sections 22870, 22871, and
31 22873, a state employee, defined by subdivision (c) of Section
32 3513, who becomes a state member of the system after January 1,
33 1989, may not receive any portion of the employer contribution
34 payable for annuitants unless the person is credited with 10 years
35 of state service at the time of retirement.

36 ***(b) The percentage of the employer contribution payable for***
37 *post-retirement health benefits for an employee subject to this*
38 *section shall be based on the completed years of credited state*
39 *service at retirement as shown in the following table:*

1	<i>Credited Years</i>	<i>Percentage of Employer</i>
2	<i>of Service</i>	<i>Contribution</i>
3	10	50
4	11	55
5	12	60
6	13	65
7	14	70
8	15	75
9	16	80
10	17	85
11	18	90
12	19	95
13	20 or more	100

14
15 (c) This section shall apply only to state employees that retire
16 for service. For purposes of this section, “state service” means
17 service rendered as an employee of the state or an appointed or
18 elected officer of the state for compensation. Notwithstanding
19 Section 22826, for purposes of this section, credited state service
20 includes service to the state for which the employee, pursuant to
21 Section 20281.5, did not receive credit.

22 ~~(b)~~

23 (d) This section does not apply to employees of the California
24 State University or the Legislature.

25 SEC. 28. Section 22876 of the Government Code is amended
26 to read:

27 22876. (a) For the purpose of meeting the vesting
28 requirements of Section 22873, employees of the County of
29 Merced who became employees of the state as a result of the
30 state’s assuming firefighting functions for that county shall be
31 credited with state service for each completed year of service
32 with the county that would have been credited by the county for
33 the vesting of postretirement health benefits. The definition of
34 “state service” does not apply to employees of the County of
35 Merced who became employees of the state as a result of the
36 state assuming firefighting functions for the county on or before
37 August 1, 1988.

38 (b) Notwithstanding ~~subdivisions (c) and (f) of Section 22875~~
39 22875.5, for the purposes of meeting the vesting requirements of
40 Section 22873, 22874, or 22875, employees of the Cities of

1 Rubidoux and Coachella who become employees of the state, on
2 or before December 31, 1990, as a result of the state's assuming
3 firefighting functions for the city, shall be credited with state
4 service for each completed year of service with the city. The city
5 shall identify those employees and provide the corresponding
6 service credit information to the board.

7 (c) No employee whose firefighting function was transferred
8 to the state after December 31, 1990, shall receive credit toward
9 postretirement health benefits vesting unless the former employer
10 agrees to reimburse the state for the costs of that credit in
11 accordance with Section 22875.5.

12 *SEC. 29. Section 22958 of the Government Code is amended*
13 *to read:*

14 22958. (a) Notwithstanding Sections 22953 and 22957, the
15 following employees may not receive any portion of the
16 employer contribution payable for annuitants, unless the person
17 is credited with 10 or more years of state service, as defined by
18 this section, at the time of retirement:

19 (1) A state employee, as defined by subdivision (c) of Section
20 3513, in State Bargaining Unit 5, 6, 8, or 16 who becomes a state
21 member of the system after January 1, 1999.

22 (2) A state employee, as defined by subdivision (c) of Section
23 3513, in State Bargaining Unit 19 who becomes a state member
24 of the system after July 1, 1998.

25 (3) A state employee, as defined by subdivision (c) of Section
26 3513, who becomes a state member of the system after January 1,
27 2000, and is a member of a state bargaining unit that has agreed
28 to this section.

29 (4) A state employee who becomes a state member of the
30 system after January 1, 2000, and is either excluded from the
31 definition of a state employee in subdivision (c) of Section 3513,
32 or a nonelected officer or employee of the executive branch of
33 government who is not a member of the civil service.

34 (b) The percentage of the employer contribution payable for
35 postretirement dental care benefits for an employee subject to
36 this section shall be based on the funding provision of the plan
37 and the completed years of credited state service at retirement as
38 shown in the following table:

Credited Years of Service	Percentage of Employer Contribution
10	50
11	55
12	60
13	65
14	70
15	75
16	80
17	85
18	90
19	95
20 or more	100

(c) This section only applies to state employees who retire for service.

(d) Benefits provided to an employee subject to this section shall be applicable to all future state service.

(e) For purposes of this section, “state service” means service rendered as an employee or an appointed or elected officer of the state for compensation. *Notwithstanding Section 22826, for purposes of this section, credited state service includes service to the state for which the employee, pursuant to Section 20281.5, did not receive credit.*

(f) In those cases where the state has assumed from a public agency a function and the related personnel, service rendered by that personnel for compensation as employees or appointed or elected officers of that public agency may not be credited as state service for the purposes of this section, unless the former employer has paid or agreed to pay the state the amount actuarially determined to equal the cost for any employee dental benefits that were vested at the time that the function and the related personnel were assumed by the state, and the Department of Finance finds that the contract contains a benefit factor sufficient to reimburse the state for the amount necessary to fully compensate for the postretirement dental benefit costs of those personnel. For noncontracting public agencies, the state agency that has assumed the function shall certify the completed years of public agency service to be credited to the employee as state service credit under this section.

1 (g) This section does not apply to employees of the California
2 State University or the Legislature.

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**All matter omitted in this version of the bill
appears in the bill as introduced in
Assembly, February, 3, 2005 (JR11)**

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